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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation/Petition to
11 Revoke Probation Against:

12 **MARGARET YAMAMOTO**
13 1370 Trancas Street, # 103
Napa, CA 94558

14 Registered Nurse License No. 245583

15 Respondent.

Case No. 2009-25

**ACCUSATION AND
PETITION TO REVOKE
PROBATION**

16
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant), brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs ("Board").

22 2. On or about August 31, 1974, the Board of Registered Nursing issued
23 Registered Nurse License Number 245583 to Margaret Yamamoto (Respondent).

24 3. In a disciplinary action entitled "In the Matter of Accusation Against
25 Margaret Frances Yamamoto aka Margaret Frances Stoneart," Case No. 94-238, the Board
26 entered a decision, effective March 30, 1994, in which Respondent's Registered Nurse License
27 was revoked.

28 4. Respondent's license was reinstated in a matter entitled "In the Matter of

1 the Petition for Reinstatement of Revoked License of: Margaret Frances Yamamoto,” OAH Case
2 No. 2005050615. The Board issued a Decision and Order, effective August 12, 2005, in which
3 Respondent would be issued a Registered Nurse license upon the successful completion of the
4 National Counsel Licensing Examination-RN. On about November 28, 2005, Respondent passed
5 the National Counsel Licensing Examination-RN and Respondent was issued a license that was
6 immediately revoked. However, the revocation was stayed and Respondent was placed on
7 probation for a period of five (5) years with certain terms and conditions. A copy of the Decision
8 in "In the Matter of the Petition for Reinstatement of Revoked License of: Margaret Frances
9 Yamamoto,” OAH Case No. 2005050615, is attached as Exhibit A and is incorporated by
10 reference.

11 JURISDICTION

12 5. This Accusation is brought before the Board of Registered Nursing
13 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
14 references are to the Business and Professions Code (“Code”) unless otherwise indicated.

15 STATUTORY PROVISIONS

16 6. **Section 2750** of the Code provides, in pertinent part, that the Board may
17 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
18 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

19 7. **Section 2764** of the Code provides, in pertinent part, that the expiration of
20 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
21 against the licensee or to render a decision imposing discipline on the license. Under section
22 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
23 the expiration.

24 8. **Section 2761** of the Code states:

25 “The board may take disciplinary action against a certified or licensed nurse or
26 deny an application for a certificate or license for any of the following:

27 “(a) Unprofessional conduct. . .”

28 . . .

“(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

”

• • •

9. **Section 2762** of the Code states:

“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

• • •

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

“(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

”

...

10. **Section 490** of the Code states:

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has

1 been affirmed on appeal, or when an order granting probation is made suspending the imposition
2 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
3 Penal Code.”

4 COSTS

5 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
6 request the administrative law judge to direct a licentiate found to have committed a violation or
7 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
8 and enforcement of the case.

9 FACTUAL BACKGROUND

10 12. On or about March 30, 1994, Respondent's Registered Nurse License was
11 revoked in a disciplinary action entitled "In the Matter of Accusation Against Margaret Frances
12 Yamamoto, aka Margaret Frances Stoneart," Case No. 94-238. The circumstances leading to the
13 revocation of Respondent's License are as follows:

14 a. In or about April 1992, Respondent falsified entries in hospital
15 and patient records pertaining to controlled substances. Respondent was in possession of a
16 schedule II controlled substance, Demerol. Respondent admitted she diverted Demerol for
17 personal use.

18 b. On or about December 3, 1991, in Santa Cruz County Municipal
19 Court Case No. 91-02781, Respondent was convicted on a plea of nolo contendere of violating
20 Vehicle Code section 23152(a), driving under the influence of alcohol/drugs.

21 13. Respondent's license was reinstated in a matter entitled "In the Matter of
22 the Petition for Reinstatement of Revoked License of: Margaret Frances Yamamoto," OAH Case
23 No. 2005050615. The Board issued a Decision and Order, effective August 12, 2005, in which
24 Respondent would be issued a Registered Nurse license upon the successful completion of the
25 National Counsel Licensing Examination-RN. On about November 28, 2005, Respondent passed
26 the National Counsel Licensing Examination-RN and Respondent was issued a license that was
27 immediately revoked. However, the revocation was stayed and Respondent was placed on
28 probation for a period of five (5) years with certain terms and conditions. A copy of the Decision

1 in "In the Matter of the Petition for Reinstatement of Revoked License of: Margaret Frances
2 Yamamoto," OAH Case No. 2005050615, is attached as Exhibit A and is incorporated by
3 reference.

4 14. As a condition of probation Respondent was required to abstain from
5 using any psychotropic (mood altering) drugs, including alcohol, except when ordered by a
6 health care professional as part of medical treatment.

7 15. On or about May 2, 2006, Respondent failed a drug and alcohol test.
8 Respondent tested positive for Ethyl Glucuronide, indicating recent alcohol use.

9 16. On or about May 18, 2006, Respondent failed another drug and alcohol
10 test in that she tested positive for Ethyl Glucuronide. Respondent admitted that she drank alcohol
11 on more than one occasion in the weeks prior to May 18, 2006.

12 17. On or about November 27, 2006, in Santa Clara County Superior Court,
13 Docket No. C648429, Respondent was convicted of violating Vehicle Code section 23152(b),
14 driving with a blood alcohol level of .08 percent or higher. The circumstance leading to
15 Respondent's conviction are as follows: on or about October 12, 2006, Respondent was arrested
16 for driving under the influence of alcohol. Respondent had a blood alcohol content of .12
17 percent.

18 18. On or about September 13, 2007, in San Luis Obispo Superior Court Case
19 No. M000397858, Respondent was convicted of violating Vehicle Code section 23152(b),
20 driving with a blood alcohol level of .08 percent or higher. The circumstance leading to
21 Respondent's conviction are as follows: on or about December 20, 2006, Respondent was
22 arrested for driving under the influence of alcohol. Respondent had a blood alcohol level of .27
23 percent.

24 19. On or about April 22, 2008, Respondent failed another drug and alcohol
25 test in that she tested positive for Ethyl Glucuronide.

26 20. On or about July 1, 2008, Respondent failed another drug and alcohol test
27 in that she tested positive for Ethyl Glucuronide. Respondent admitted that she had a relapse and
28 drank alcohol.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 21. Respondent is subject to disciplinary action under section 2761(a) of the
4 Code in that she engaged in unprofessional conduct. The circumstances are set forth in
5 paragraphs 14-20, above.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Conviction of Substantially Related Crimes)

8 22. Respondent is subject to disciplinary action under sections 490 and
9 2761(f) of the Code in that she was convicted of crimes substantially related to the qualifications,
10 functions, and duties of a registered nurse. The circumstances are set forth in paragraphs 17-18,
11 above.

12 **THIRD CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct- Dangerous or Injurious Use of Alcohol)

14 23. Respondent is subject to disciplinary action under section 2762(b) of the
15 Code in that she used alcoholic beverages, to an extent or in a manner dangerous or injurious to
16 herself or the public or to the extent that such use impaired her ability to practice nursing safety.
17 The circumstances are set forth in paragraphs 14-20, above.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct-Conviction Involving Alcohol)

20 24. Respondent is subject to disciplinary action under section 2762(c) of the
21 Code in that she was convicted of multiple crimes involving the use of alcohol. The
22 circumstances are set forth in paragraphs 17-18, above.

23 **FIRST CAUSE TO REVOKE PROBATION**

24 (Failure to Timely Participate/Document Treatment)

25 25. At all times after the effective date of Respondent's probation, Condition
26 3 stated:

27 PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR
28 CHEMICAL DEPENDENCE - Petitioner, at her expense, shall successfully
complete during the probationary period or shall have successfully completed

1 prior to commencement of probation a Board-approved treatment/rehabilitation
2 program of at least six months duration. As required, reports shall be submitted by
3 the program on forms provided by the Board. If Petitioner has not completed a
4 Board-approved treatment/rehabilitation program prior to commencement of
5 probation, Petitioner, within 45 days from the effective date of the decision, shall
6 be enrolled in a program. If a program is not successfully completed within the
7 first nine months of probation, the Board shall consider Petitioner in violation of
8 probation.

9 Based on Board recommendation, each week Petitioner shall be required to
10 attend at least one, but no more than five 12-step recovery meetings or equivalent
11 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support
12 group as approved and directed by the Board. If a nurse support group is not
13 available, an additional 12-step meeting or equivalent shall be added. Petitioner
14 shall submit dated and signed documentation confirming such attendance to the
15 Board during the entire period of probation. Petitioner shall continue with the
16 recovery plan recommended by the treatment/rehabilitation program or a licensed
17 mental health examiner and/or other ongoing recovery groups.

18 26. Respondent's probation is subject to revocation because she failed to
19 comply with Probation Condition 3, referenced above. Respondent has failed to complete a
20 Treatment/Rehabilitation Program within 9 months of the beginning of probation. Respondent
21 has failed to submit dated and signed documentation confirming attendance at 12-step recovery
22 meetings.

23 SECOND CAUSE TO REVOKE PROBATION

24 (Failure to Abstain From Using Alcohol)

25 27. At all times after the effective date of Respondent's probation, Condition
26 4 stated:

27 **ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS**
28 Petitioner shall completely abstain from the possession, injection or consumption
by any route of all psychotropic (mood altering) drugs, including alcohol, except
when the same are ordered by a health care professional legally authorized to do
so as part of documented medical treatment. Petitioner shall have sent to the
Board, in writing and within fourteen (14) days, by the prescribing health
professional, a report identifying the medication, dosage, the date the medication
was prescribed, the Petitioner's prognosis, the date the medication will no longer
be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or
physician assistant who shall be aware of Petitioner's history of substance abuse
and will coordinate and monitor any prescriptions for Petitioner for dangerous
drugs, controlled substances or mood-altering drugs. The coordinating physician,
nurse practitioner, or physician assistant shall report to the Board on a quarterly
basis Petitioner's compliance with this condition. If any substances considered
addictive have been prescribed, the report shall identify a program for the time

1 limited use of any such substances.

2 The Board may require the single coordinating physician, nurse practitioner, or
3 physician assistant to be a specialist in addictive medicine, or to consult with a
specialist in addictive medicine.

4 28. Respondent's probation is subject to revocation because she failed to
5 comply with Probation Condition 4, referenced above. Respondent used alcohol as set forth in
6 paragraphs 15-20, above.

7 **THIRD CAUSE TO REVOKE PROBATION**

8 (Failure to Submit to Testing)

9 29. At all times after the effective date of Respondent's probation, Condition
10 5 stated:

11 SUBMIT TO TESTS AND SAMPLES - Petitioner, at her expense, shall
12 participate in a random, biological fluid testing or a drug screening program which
13 the Board approves. The length of time and frequency will be subject to approval
14 by the Board. The Petitioner is responsible for keeping the Board informed of
15 Petitioner's current telephone number at all times. Petitioner shall also ensure
16 that messages may be left at the telephone number when he/she is not available
and ensure that reports are submitted directly by the testing agency to the Board,
as directed. Any confirmed positive finding shall be reported immediately to the
Board by the program and the Petitioner shall be considered in violation of
probation.

17 In addition, Petitioner, at any time during the period of probation, shall fully
18 cooperate with the Board or any of its representatives, and shall, when requested,
submit to such tests and samples as the Board or its representatives may require
for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
controlled substances.

19 If Petitioner has a positive drug screen for any substance not legally authorized
20 and not reported to the coordinating physician, nurse practitioner, or physician
21 assistant, and the Board files a petition to revoke probation or an accusation, the
22 Board may suspend Petitioner from practice pending the final decision on the
petition to revoke probation or the accusation. This period of suspension will not
apply to the reduction of this probationary time period.

23 If Petitioner fails to participate in a random, biological fluid testing or drug
24 screening program within the specified time frame, the Petitioner shall
25 immediately cease practice and shall not resume practice until notified by the
26 Board. After taking into account documented evidence of mitigation, if the Board
files a petition to revoke probation or an accusation, the Board may suspend
Petitioner from practice pending the final decision on the petition to revoke
probation or the accusation. This period of suspension will not apply to the
reduction of this probationary time period.

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1 30. Respondent's probation is subject to revocation because she failed to
2 comply with Probation Condition 5, referenced above as follows:

3 a. Respondent failed to submit to required drug screens on June 15,
4 2006 and September 7, 2006.

5 b. Respondent submitted to a drug screen at an unapproved lab on
6 September 22, 2006.

7 c. Respondent failed to keep her account current with Compass
8 Vision and was unable to be called for testing on November 21, 2006 and December 12, 2006.

9 d. Respondent failed to keep her account current with Compass
10 Vision and failed to call in for testing from January 1, 2007 to December 6, 2007.

11 e. Respondent failed to call in for testing on February 19, 2008 and
12 March 28, 2008.

13 **FOURTH CAUSE TO REVOKE PROBATION**

14 (Obey all Laws)

15 31. At all times after the effective date of Respondent's probation, Condition
16 8 stated:

17 OBEY ALL LAWS - Petitioner shall obey all federal, state and local laws. A
18 full and detailed account of any and all violations of law shall be reported by the
19 Petitioner to the Board in writing within seventy-two (72) hours of occurrence.
20 To permit monitoring of compliance with this condition, Petitioner shall submit
completed fingerprint forms and fingerprint fees within 45 days of the effective
date of the decision, unless previously submitted as part of the licensure
application process.

21 32. Respondent's probation is subject to revocation because she failed to
22 comply with Probation Condition 8, referenced above. Respondent has failed to obey all laws as
23 set forth in paragraphs 18-21, above. Respondent has failed to inform the Board within 72 hours
24 of her arrests and convictions as described in paragraphs 17-18, above.

25 **FIFTH CAUSE TO REVOKE PROBATION**

26 (Failure to Comply With Probation Program)

27 33. At all times after the effective date of Respondent's probation, Condition
28 9 stated:

1 COMPLY WITH THE BOARD'S PROBATION PROGRAM - Petitioner shall
2 fully comply with the conditions of the Probation Program established by the
3 Board and cooperate with representatives of the Board in its monitoring and
4 investigation of the Petitioner's compliance with the Board's Probation Program.
5 Petitioner shall inform the Board in writing within no more than 15 days of any
6 address change and shall at all times maintain an active, current license status with
7 the Board, including during any period of suspension.

8 34. Respondent's probation is subject to revocation because she failed to
9 comply with Probation Condition 9, referenced above. Respondent has failed to Comply with
10 the terms of her probation as described in paragraphs 25-33, above and paragraphs 35-36, below.

11 **SIXTH CAUSE TO REVOKE PROBATION**

12 (Written Reports)

13 35. At all times after the effective date of Respondent's probation, Condition
14 12 stated:

15 SUBMIT WRITTEN REPORTS - Petitioner, during the period of probation,
16 shall submit or cause to be submitted such written reports/declarations and
17 verification of actions under penalty of perjury, as required by the Board. These
18 reports/declarations shall contain statements relative to Petitioner's compliance
19 with all the conditions of the Board's Probation Program. Petitioner shall
20 immediately execute all release of information forms as may be required by the
21 Board or its representatives.

22 36. Respondent's probation is subject to revocation because she failed to
23 comply with Probation Condition 12, referenced above as follows:

24 a. Respondent has failed to submit written quarterly reports as
25 required.

26 b. Respondent has failed to inform the board in writing of her arrests
27 and convictions as described in paragraphs 18-21, above.

28 c. Respondent has failed to submit group attendance forms as
required.

DISCIPLINE CONSIDERATIONS

37. To determine the degree of discipline, if any, to be imposed on
Respondent, Complainant alleges that Respondent has a long criminal history as follows:

a. On or about August 10, 1994, in Watsonville Municipal Court,
Respondent was convicted of violating Penal Code section 484(a), petty theft.

1 b. On or about January 6, 1995, in Watsonville Municipal Court,
2 Respondent was convicted of violating Vehicle Code section 23152(a), driving under the
3 influence.

4 c. On or about December 7, 1995, in Monterrey County Superior
5 Court, Respondent was convicted of violating Vehicle Code section 23152(a), driving under the
6 influence with priors.

7 d. On or about December 6, 1996, in Santa Cruz Municipal Court,
8 Respondent was convicted of violating Penal Code section 476a, writing checks with insufficient
9 fund / intent to defraud and violating Penal Code section 484, petty theft.

10 e. On or about February 26, 1998, in Santa Cruz Municipal Court,
11 Respondent was convicted of violating Penal Code section 666, petty theft with priors.

12 f. On or about January 8, 1999, in Monterey County Superior Court,
13 Respondent was convicted of violating Penal Code section 484/666, petty theft with priors.

14 g. On or about June 27, 2002, in Monterey County Superior Court,
15 Respondent was convicted of violating Penal Code section 476, passing a fictitious check.

16 PRAYER

17 WHEREFORE, Complainant requests that a hearing be held on the matters herein
18 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

19 1. Revoking the probation that was granted by the Board Registered Nursing
20 in OAH Case No. L2005050615 and thereby revoking Registered Nursing License Number
21 245583 issued to Margaret Yamamoto;

22 2. Revoking or suspending Registered Nurse License Number 245583, issued
23 to Margaret Yamamoto;

24 3. Ordering Margaret Yamamoto to pay the Board of Registered Nursing the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;


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4. Taking such other and further action as is deemed necessary and proper.

DATED: 7/31/88


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement:

Margaret Frances Yamamoto

Registered Nurse License No. 245583

Petitioner.

OAH No. L2005050615

DECISION

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on August 12, 2005.

IT IS SO ORDERED this 8th day of August 2005.

Sandra R. Erickson

President
Board of Registered Nursing
Department of Consumer Affairs
State of California

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of Revoked License of:

OAH No. L2005050615

MARGARET FRANCES YAMAMOTO,

Petitioner.

DECISION

This matter came on regularly for hearing before a quorum of the Board of Registered Nursing, presided over by David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California at Los Angeles, California, on June 23, 2005. The following members of the Board were present: Sandra Erickson, CRNA, President; LaFrancine Tate, Vice President; Carmen Morales-Board, MSN, RN, NP; Cynthia G. Johnson, EdD, RN; Grace Corse, RN; Jill Furillo, RN; and Orlando H. Pile, M.D.

Sharon D. Cohen, Deputy Attorney General, was present pursuant to Government Code section 11522. Petitioner Margaret Frances Yamamoto appeared and represented herself.

Documentary and oral evidence was received and the matter was submitted.

FINDINGS OF FACT

The Board finds the following facts:

1. On September 30, 1971, the Board issued Registered Nurse license no. H 219405 to Petitioner.

2. By a Decision effective April 30, 1995, Petitioner's license was revoked, based upon Petitioner's unprofessional conduct in violation of Business and Professions Code sections 2761 and 2762 by: (1) falsifying entries in hospital and patient records pertaining to controlled substances in April 1992; (2) obtaining Demerol by fraud, deceit or subterfuge in violation of Health and Safety Code section 11173, subdivision (a), in April 1992; and (3)

Petitioner's violation of Business and Professions Code section 490 by virtue of her conviction in December 1991 of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol or drugs.

3. Petitioner's Petition For Reinstatement was received by the Board on April 4, 2005.

4. Petitioner established that she is rehabilitated from the acts and conviction that led to the revocation of her license. Among other things, she established a sobriety date of May 8, 2002, that she has had several criminal convictions, the probation from one conviction was terminated early on January 28, 2005, and the conviction was reduced to a misdemeanor. She attended an in-patient drug abuse program for two years and successfully completed it. She has also attended meetings of a nurse's support group, Alcoholics Anonymous, and Narcotics Anonymous.

5. In October 2004, Petitioner began working as a bus driver in Santa Rosa, California. At the time not established by the evidence, she left that job, and later began working at the Mendocino County Health Clinics, with responsibility as the Joint Commission Coordinator and Infection Control Coordinator. Petitioner attended and completed a nursing reentry program, from September through December, 2004, completing 66 contact hours. Petitioner also submitted letters of reference and support from her probation officer, a past employer, and a member of a nurse support group.

CONCLUSIONS OF LAW

Pursuant to the foregoing findings of fact, the Board makes the following conclusion of law:

Cause exists pursuant to Business and Professions Code section 2760.1 and Government Code section 11522, with due consideration for the public safety, to reinstate Petitioner's license as a registered nurse, under terms and conditions.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The petition of Margaret Frances Yamamoto for reinstatement of her license as a registered nurse is hereby granted, as follows: upon successful completion of the NCLEX (National Council Licensure Examination –RN), a license shall be issued to Petitioner. Said license shall immediately be revoked, the order of revocation stayed and Petitioner placed on probation for a period of five (5) years on the following conditions:

1. SEVERABILITY CLAUSE - Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

2. PHYSICAL EXAMINATION - Within 45 days of the effective date of this decision, Petitioner, at her expense, shall have a licensed physician, nurse practitioner, or physician assistant, who is approved by the Board before the assessment is performed, submit an assessment of the Petitioner's physical condition and capability to perform the duties of a registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If medically determined, a recommended treatment program will be instituted and followed by the Petitioner with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Petitioner is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and Petitioner by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, Petitioner shall not engage in any practice for which a license issued by the Board is required until the Board has notified Petitioner that a medical determination permits Petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the Petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

3. PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR CHEMICAL DEPENDENCE - Petitioner, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Petitioner has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Petitioner in violation of

probation.

Based on Board recommendation, each week Petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

4. ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS - Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the Petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of Petitioner's history of substance abuse and will coordinate and monitor any prescriptions for Petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis Petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

5. SUBMIT TO TESTS AND SAMPLES - Petitioner, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board approves. The length of time and frequency will be subject to approval by the Board. The Petitioner is responsible for keeping the Board informed of Petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the Petitioner shall be considered in violation of probation.

In addition, Petitioner, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If Petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend Petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If Petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend Petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

6. MENTAL HEALTH EXAMINATION - The Petitioner shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the Petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the Petitioner.

If Petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and Petitioner by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, Petitioner shall not engage in any practice for which a license issued by the Board is required, until the Board has notified Petitioner that a mental health determination permits Petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the Petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, Petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the Petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

7. THERAPY OR COUNSELING PROGRAM - Petitioner, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

8. OBEY ALL LAWS - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the Petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

CRIMINAL COURT ORDERS: If Petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

9. COMPLY WITH THE BOARD'S PROBATION PROGRAM - Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, Petitioner's license shall be fully restored.

10. REPORT IN PERSON - Petitioner, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.

11. RESIDENCY, PRACTICE, OR LICENSURE OUTSIDE OF STATE - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when she

resides outside of California. The Petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where she has ever been licensed as a registered nurse, vocational nurse, or practical nurse. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

12. **SUBMIT WRITTEN REPORTS** - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to Petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.

13. **FUNCTION AS A REGISTERED NURSE** - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any nondirect patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Petitioner has not complied with this condition during the probationary term, and the Petitioner has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

14. EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS –

Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Petitioner shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

15. SUPERVISION - Petitioner shall obtain prior approval from the Board regarding Petitioner's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Petitioner works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Petitioner at least twice during each shift worked.

(d) Home Health Care - If Petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with Petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The

individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the Petitioner with or without Petitioner present.

16. EMPLOYMENT LIMITATIONS - Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Petitioner from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Petitioner shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Petitioner shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the Petitioner is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

17. COMPLETE A NURSING COURSE(S) - Petitioner, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of his or her probationary term.

Petitioner shall obtain prior approval from the Board before enrolling in the course(s). Petitioner shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Petitioner after photocopying them for its records.

If Petitioner has not complied with this condition during the probationary term, and Petitioner has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the Petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

18. VIOLATION OF PROBATION - If Petitioner violates the conditions of her probation, the Board after giving the Petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed revocation of Petitioner's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

19. LICENSE SURRENDER - During Petitioner's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Petitioner may surrender her license to the Board. The Board reserves the right to evaluate Petitioner's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Petitioner will no longer be subject to the conditions of probation.

Surrender of Petitioner's license shall be considered a disciplinary action and shall become a part of Petitioner's license history with the Board. A registered nurse whose license has been surrendered may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision:

(1) Two years for reinstatement of a license that was surrendered for any reason other than a mental or physical illness; or

(2) One year for a license surrendered for a mental or physical illness.

This Decision shall be effective August 12, 2005.

DATED: August 8, 2005.



SANDRA ERICKSON, CRNA
President
Board of Registered Nursing

DBR:dr

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

MARGARET FRANCES YAMAMOTO aka)
MARGARET FRANCES STONEART)
130-A Quiet Meadow Drive)
Watsonville, CA 95076)
License No. J 245583,)

Respondent.)
_____)

Case No. 94-238

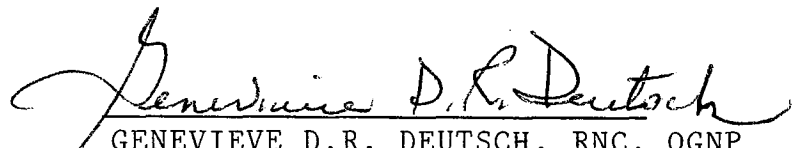
OAH No. N 9409147

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on April 30, 1995.

IT IS SO ORDERED March 30, 1995.


GENEVIEVE D.R. DEUTSCH, RNC, OGNP
President

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	Case No. 94-238
MARGARET FRANCES YAMAMOTO aka)	
MARGARET FRANCES STONEART)	OAH No. N 9409147
130-A Quiet Meadow Drive)	
Watsonville, CA 95076)	
License No. J 245583,)	
)	
Respondent.)	

PROPOSED DECISION

This matter was heard before Nancy L. Rasmussen, Administrative law Judge, Office of Administrative Hearings, State of California, on December 20, 1995, at San Jose, California.

The complainant was represented by Hannah Wiss Hirsch, Deputy Attorney General.

There was no appearance by or on behalf of respondent Margaret Frances Yamamoto.

FINDINGS OF FACT

I

Ruth Ann Terry, R.N., M.P.H., made the accusation in her official capacity as Executive Officer, Board of Registered Nursing ("Board"), Department of Consumer Affairs.

II

Process was duly served in the manner prescribed by law. Compliance with Government Code sections 11505 and 11509 was established.

III

On August 31, 1974, the Board issued registered nurse license number J 245583 to Margaret Frances Stoneart. The latest license renewal certificate, with an expiration date of

November 30, 1995, was issued in the name of Margaret Frances Yamamoto ("respondent").

IV

"Demerol," a brand of meperidine hydrochloride, a derivative of pethidine, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(c)(16).

V

While on duty as a registered nurse in the medical-surgical unit of Natividad Medical Center in Salinas, California, respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records pertaining to controlled substances, in the following respects:

a. On April 21, 1992, respondent signed for 75 mg. of Demerol for patient Shawna O. on line 6 of the hospital controlled drug record and recorded the time as "0830," which is out of sequence with the entry of 0900 hours on the previous line. Respondent then recorded wastage of 75 mg., forging the signature of another nurse as witness to the alleged wastage. At 0830 hours on April 21, 1992, there was no valid physician's order for administration of this medication to the patient, because the medication order had been discontinued at 0715 hours.

b. On April 21, 1992, at 1100 hours, respondent signed for 75 mg. of Demerol for patient Shawna O. on the hospital controlled drug record, and then recorded wastage of 25 mg., forging the signature of another nurse as witness to the alleged wastage. Respondent charted administration of 50 mg. of Demerol on the patient's medication record at 1100 hours, which would have been without a valid physician's order, because the medication order had been discontinued at 0715 hours.

c. On April 21, 1992, respondent signed for 75 mg. of Demerol for patient Shawna O. on line 10 of the hospital controlled drug record and recorded the time as "1330," which is out of sequence with the entry of 1430 hours on the previous line (line 9). Respondent charted administration of 50 mg. of Demerol at 1345 hours on the patient's medication record, but failed to account for the disposition of the remaining 25 mg. of Demerol. Administration of this medication to the patient at 1345 hours would have been without a valid physician's order, because the medication order had been discontinued at 0715 hours.

d. On April 21, 1992, respondent signed for 75 mg. of Demerol for patient Shawna O. on line 11 of the hospital

controlled drug record and recorded the time as "1400," which is in sequence with her entry of 1330 hours on line 10 but is still earlier than the entry of 1430 hours on line 9. Respondent then recorded wastage of 75 mg., forging the signature of another nurse as witness to the alleged wastage. Furthermore, at 1400 hours on April 21, 1992, there was no valid physician's order for administration of this medication to the patient, because the medication order had been discontinued at 0715 hours.

e. On April 22, 1992, at 0950 hours, respondent signed for 50 mg. of Demerol for patient Ramon P. on the hospital controlled drug record. Although she then recorded wastage of 50 mg., forging the signature of another nurse as witness to the alleged wastage, respondent charted administration of 50 mg. of Demerol on the patient's medication record.

f. On April 22, 1992, respondent signed for 50 mg. of Demerol for patient Ramon P. on line 21 of the hospital controlled drug record and recorded the time as "1030," which is out of sequence with the entry of either 1145 or 1445 hours (one cannot tell which time was entered) on the previous line. Respondent charted administration of 50 mg. of Demerol at 1030 hours on the patient's medication record, but failed to chart this administration on the patient's nursing notes. Administration of this medication at 1030 hours would have been in excess of the physician's order of 50 mg. of Demerol every 4 hours as needed for pain, because only 40 minutes had elapsed since respondent had last medicated the patient with Demerol, according to her entry in the patient's medication record.

g. On April 22, 1992, respondent signed for 75 mg. of Demerol for patient Ramon P. on line 22 of the hospital controlled drug record (No. I 10465) and recorded the time as "1300," which is out of sequence with the entry of 1345 hours on the previous line. On April 22, 1992, at 1330 hours, respondent signed for 50 mg. of Demerol for patient Ramon P. on the hospital controlled drug record (No. I 6888), then recorded wastage of 50 mg., forging the signature of another nurse as witness to the alleged wastage. Respondent charted administration of 50 mg. of Demerol at 1330 hours on the patient's medication record, but failed to account for the disposition of the remaining Demerol. Furthermore, administration of this medication at 1330 hours was in excess of the physician's order of 50 mg. of Demerol every 4 hours as needed for pain, because only 3 hours had elapsed since respondent had last medicated the patient with Demerol, according to her entry in the patient's medication record.

VI

On April 23, 1992, after discrepancies in the hospital controlled drug records had been discovered, respondent admitted to the manager of the medical-surgical unit that she had diverted Demerol for her own use, explaining that she had "slipped." When the hospital later gave respondent the choice of resigning or being dismissed from her employment, respondent submitted her resignation.

During the Board's subsequent investigation of the matter, respondent admitted to investigators for the Department of Consumer Affairs that during her employment at Natividad Medical Center, she had diverted Demerol for her own use by falsifying entries on the hospital controlled drug records and forging the signature of a fellow nurse as witness to alleged wastage of the medication.

VII

From May 18 to June 16, 1992, respondent was treated in the inpatient program at Watsonville Community Hospital Alcohol and Drug Treatment Center. She successfully completed this program. Respondent entered the Board's formal diversion program in about July 1992, but she "relapsed" after a couple of months. She contacted the Board and was referred to the Women's Recovery Association ("WRA") in Burlingame. Respondent participated in the WRA residential treatment program from December 29, 1992 to February 22, 1993, when she was discharged following a positive drug screen for alcohol.

VIII

On December 3, 1991, in the Santa Cruz County Municipal Court, in Case No. 91-02781, respondent was convicted on a plea of nolo contendere of a violation of Vehicle Code section 23152(a) (driving while under the influence of alcohol and/or drugs), a crime which is substantially related to the qualifications, functions or duties of a registered nurse.

Imposition of sentence was suspended, and respondent was placed on summary probation for 60 months. Conditions of probation included, inter alia, requirements that she serve 48 hours in county jail (8 hours credit for time served), pay a \$1,281 fine, and enroll in and complete the First Offender Drinking Driver Program.

DETERMINATION OF ISSUES

I

Finding V: Cause for disciplinary action exists under Business and Professions Code section 2761(a) in that

respondent has engaged in unprofessional conduct within the meaning of Business and Professions Code section 2762(e).

II

Findings V and VI: Respondent violated Health and Safety Code section 11173(a) when she obtained Demerol by fraud, deceit, misrepresentation or subterfuge. Cause for disciplinary action therefore exists under Business and Professions Code section 2761(a) in that respondent has engaged in unprofessional conduct within the meaning of Business and Professions Code section 2762(a).

III

Finding VIII: Cause for disciplinary action exists under Business and Professions Code sections 490 and 2761(f). Cause for disciplinary action also exists under Business and Professions Code section 2761(a) in that respondent has engaged in unprofessional conduct within the meaning of Business and Professions Code section 2762(c).

IV

It would not be in the public interest to allow respondent to retain her license, even on a probationary basis.

V

Although the prayer in the accusation included a request that respondent be ordered pursuant to Business and Professions Code section 125.3 to pay the Board its costs in investigating, presenting and prosecuting the case, no evidence was presented to establish the amount of those costs.

ORDER

Registered nurse license number J 245583 issued to respondent Margaret Frances Yamamoto, also known as Margaret Frances Stoneart, is revoked under Determinations I, II and III, separately and for all of them.

DATED:

January 19, 1995

Nancy L. Rasmussen

NANCY L. RASMUSSEN

Administrative Law Judge

Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General
 of the State of California
 2 CYNTHIA CHOY ONG
 Deputy Attorney General
 3 455 Golden Gate Avenue, Suite 6200
 San Francisco, California 94102-3658
 4 Telephone: (415) 703-2239

5 Attorneys for Complainant

6
 7 BEFORE THE
 BOARD OF REGISTERED NURSING
 8 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA
 9

10 In the Matter of the Accusation)	NO. 94-238
Against:)	
11)	
MARGARET FRANCES YAMAMOTO aka)	<u>ACCUSATION</u>
12 MARGARET FRANCES STONEART)	
13 130-A Quiet Meadow Drive)	
Watsonville, CA 95076)	
14 License No. J 245583,)	
)	
Respondent.)	
15)	

16 Ruth Ann Terry, R.N., M.P.H., for causes for
 17 discipline, alleges:

18
 19 1. Complainant Ruth Ann Terry, R.N., M.P.H., makes
 20 and files this accusation in her official capacity as Executive
 21 Officer, Board of Registered Nursing, Department of Consumer
 22 Affairs.

23
 24 2. On August 31, 1974, the Board of Registered Nursing
 25 issued Registered Nurse License Number J 245583 to Margaret
 26 Frances Yamamoto, also known as Margaret Frances Stoneart. On
 27 November 30, 1995, the license will expire, unless renewed.

1 3. Under Business and Professions Code section
2 2750, the Board of Registered Nursing may discipline any
3 licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 of the
5 Nursing Practice Act.

6 Under Business and Professions Code section 2764,
7 the expiration of a license shall not deprive the Board of
8 Registered Nursing of jurisdiction to proceed with a
9 disciplinary proceeding against the licensee or to render a
10 decision imposing discipline on the license.

11 Under Business and Professions Code section 490,
12 the Board of Registered Nursing may suspend or revoke a
13 license when it finds that the licensee has been convicted of
14 a crime substantially related to the qualifications,
15 functions or duties of a registered nurse.

16 Under Business and Professions Code section 125.3,
17 the Board of Registered Nursing may request the
18 administrative law judge to direct a licentiate found to have
19 committed a violation or violations of the licensing act to
20 pay a sum not to exceed the reasonable costs of the
21 investigation and enforcement of the case.

22
23 4. DRUGS

24 "Demerol," a brand of meperidine hydrochloride, a
25 derivative of pethidine, is a Schedule II controlled
26 substance as designated by Health and Safety Code section
27 11055(c)(16).

1 5. Respondent has subjected her license to
2 discipline under Business and Professions Code section
3 2761(a) on the grounds of unprofessional conduct as defined
4 in section 2762(e) of that code in that while on duty at
5 Natividad Medical Center, Salinas, California, respondent
6 falsified, made grossly incorrect, grossly inconsistent, or
7 unintelligible entries in hospital and patient records
8 pertaining to controlled substances in the following
9 respects:

10 a. On April 21, 1992, at 0830 hours, respondent
11 signed for 75 mg. of Demerol on the hospital controlled drug
12 record for patient Shawna O., then recorded wastage and, by
13 her own admission, forged the signature of another nurse as a
14 witness to the alleged wastage.

15 b. On April 21, 1992, at 1100 hours, respondent
16 signed for 75 mg. of Demerol on the hospital controlled drug
17 record for patient Shawna O. without a valid physician's
18 order, then recorded wastage of 25 mg and, by her own
19 admission, forged the signature of another nurse as a witness
20 to the alleged wastage, and falsely charted administration of
21 50 mg. of Demerol on the patient's medication record.

22 c. On April 21, 1992, at 1300 hours, respondent
23 signed for 75 mg. of Demerol on the hospital controlled drug
24 record for patient Shawna O. without a valid physician's
25 order, then recorded wastage of 25 mg and, by her own
26 admission, forged the signature of another nurse as a witness
27 to the alleged wastage, and falsely charted administration of

1 50 mg. of Demerol on the patient's medication record.

2 d. On April 21, 1992, at 1400 hours, respondent
3 signed for 75 mg. of Demerol on the hospital controlled drug
4 record for patient Shawna O. without a valid physician's
5 order, then recorded wastage of 25 mg and, by her own
6 admission, forged the signature of another nurse as a witness
7 to the alleged wastage, and falsely charted administration of
8 50 mg. of Demerol on the patient's medication record.

9 e. On April 22, 1992, at 0950 hours, respondent
10 signed for 50 mg. of Demerol on the hospital controlled drug
11 record for patient Ramon P., recorded wastage of 50 mg and,
12 by her own admission, forged the signature of another nurse
13 as a witness to the alleged wastage, and falsely charted
14 administration of 50 mg. of Demerol on the patient's
15 medication record.

16 f. On April 22, 1992, respondent signed for 50 mg.
17 of Demerol on line 21 of the hospital controlled drug record
18 for patient Ramon P., and recorded the time as "1030", which
19 is out of sequence with the entry on the preceding line.

20 g. On April 22, 1992, at 1300 hours, respondent
21 signed for 75 mg. of Demerol on the hospital controlled drug
22 record (Number I 10465) for patient Ramon P., and at 1330
23 hours, respondent signed for 50 mg. of Demerol on the
24 hospital controlled drug record (Number I 6888) for patient
25 Ramon P., recorded wastage of 50 mg and, by her own
26 admission, forged the signature of another nurse as a witness
27 to the alleged wastage, falsely charted administration of

1 50 mg. of Demerol on the patient's medication record, and
2 failed to record wastage or otherwise account for 75 mg. of
3 Demerol.

4
5 6. Respondent has subjected her license to
6 discipline under Business and Professions Code section
7 2761(a) on the grounds of unprofessional conduct as defined
8 in section 2762(a) of that code in that while on duty at
9 Natividad Medical Center, Salinas, California, respondent
10 obtained Demerol by fraud, misrepresentation, or subterfuge,
11 in violation of Health and Safety Code section 11173(a) by
12 misrepresenting that she had obtained the substance for
13 patients Shawna O. and Ramon P. and recorded wastage, when,
14 in fact, by her own admission, respondent obtained the
15 Demerol for her own use without lawful authority therefor, as
16 set forth in paragraph 5.

17
18 7. Respondent has subjected her license to
19 discipline under Business and Professions Code section
20 2761(f) in that on December 3, 1991, respondent was convicted
21 by the Court on a plea of nolo contendere of violating
22 Vehicle Code section 23152(a) (driving while under the
23 influence of alcohol) in Santa Cruz Municipal Court, case
24 number 91-02781, entitled People v. Margaret Frances
25 Yamamoto. Such conduct is substantially related to the
26 qualifications, functions or duties of a registered nurse, as
27 defined in Title 16, California Code of Regulations, section

1 1444, in that on October 29, 1991, at approximately 8:30
2 p.m., respondent was driving her 1984 Chevrolet Celebrity,
3 while under the influence of alcohol, on State Route 1 at the
4 airport off ramp in Santa Cruz, California.

5
6 8. Respondent has subjected her license to
7 discipline under Business and Professions Code section 490 in
8 that respondent has been convicted of a crime substantially
9 related to the qualifications, functions or duties of a
10 licensed registered nurse, as set forth in paragraph 7.

11
12 9. Respondent has subjected her license to
13 discipline under Business and Professions Code section
14 2761(a) on the grounds of unprofessional conduct as defined
15 in section 2762(c) of that code in that respondent has been
16 convicted of a crime involving the consumption of alcohol, as
17 set forth in paragraph 7.

18
19 WHEREFORE, complainant prays that a hearing be held
20 and that the Board of Registered Nursing make its order:

21 1. Revoking or suspending Registered Nurse License
22 Number J 245583, issued to Margaret Frances Yamamoto, aka
23 Margaret Frances Stoneart.

24 2. Ordering Margaret Frances Yamamoto, aka
25 Margaret Frances Stoneart, to pay to the Board of Registered
26 Nursing its costs in investigating, presenting, and
27 prosecuting the case according to proof at the hearing,

1 pursuant to Business and Professions Code section 125.3.

2 3. Taking such other and further action as may be
3 deemed proper and appropriate.

4 DATED: 6/27/94

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Ruth Ann Terry

RUTH ANN TERRY, R.N., M.P.H.

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California

Complainant

03579110-
SF94A0170
6-7-94(jr)